1 2 3 4 UNITED STATES DISTRICT COURT 5 DISTRICT OF NEVADA 6 ALLEN FRED ALTERGOTT, Case No. 3:15-cv-00159-RCJ-WGC 7 **ORDER** Plaintiff, 8 Re: ECF No. 60 v. 9 SENNA, et. al., 10 Defendants. 11 12 Before the court is Plaintiff's Motion to Strike Defendants' Supplemental Response in 13 Support of Defendants' Motion for Summary Judgment as Untimely Pursuant to Rule 5. 14 (Electronic Case Filing (ECF) No. 60.) 15 On August 18, 2016, the court held a hearing regarding what the court construed as 16 Plaintiff's request for additional discovery pursuant to Federal Rule of Civil Procedure 56(d). 17 (See Minutes at ECF No. 52.) The court ordered Defendants to submit the requested 18 documentation by Tuesday August 23, 2016; gave Plaintiff up to September 2, 2016, to file a 19 supplemental memorandum; and, gave Defendants' until September 12, 2016 to file a response. 20 (*Id.* at 2.) 21 On August 24, 2016, Defendants filed a notice of compliance with the court's order 22 indicating they had provided the documentation to Plaintiff. Plaintiff filed his supplemental 23 memorandum on September 6, 2016. (ECF No. 54.) Defendants filed their response on 24 September 13, 2016. (ECF No. 57.) 25 The same day that the court issued its report and recommendation on Defendants' motion 26 for summary judgment (ECF No. 63), September 28, 2016, Plaintiff filed this motion to strike 27 Defendants' supplemental response. 28 ///

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It is true that Defendants' filed the subject documentation as well as their supplemental
response a day later than the court-imposed deadlines; however, Plaintiff's supplemental
response (which Defendants' supplemental brief was to address) was also filed four days late.
Both parties are admonished to comply with the court's filing deadlines in the future or risk that
the court will not consider their filings. In this instance, however, there was no prejudice as a
result of the late filings, and the court exercised its discretion to consider the late filings of both
Defendants and Plaintiff. Therefore, Plaintiff's motion to strike (ECF No. 60) is <u>DENIED</u> .
IT IS SO ORDERED.
Dated: September 29, 2016.
Willen G. Cobb
WILLIAM G. COBB UNITED STATES MAGISTRATE JUDGE
UNITED STATES MADISTRATE JUDGE